



BILLING CODE 6345-03-P

OFFICE OF GOVERNMENT ETHICS

Agency Information Collection Activities; Submission for OMB Review; Proposed Collection; Comment Request for a Modified OGE Form 201 Ethics in Government Act Access Form

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: After publication of this second round notice, OGE plans to submit a proposed modified OGE Form 201 Ethics in Government Act access form to the Office of Management and Budget (OMB) for review and approval of a three-year extension under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The OGE Form 201 is used by persons requesting access to executive branch public financial disclosure reports and other covered records.

DATES: Written comments by the public and the agencies on this proposed extension are invited and must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments on this paperwork notice may be submitted to the Office of Management and Budget, Attn: Desk Officer for OGE, via fax at 202-395-6974 or email at OIRA_Submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Paul D. Ledvina at the U.S. Office of Government Ethics; telephone: 202-482-9247; TTY: 800-877-8339; FAX: 202-482-9237; E-mail: paul.ledvina@oge.gov. An electronic copy of the OGE Form 201 version used to manually submit access requests to OGE or other executive branch agencies by mail or FAX is available in the Forms Library section of OGE's Web site at <http://www.oge.gov>. A copy of the proposed modified form may be obtained, without charge, by contacting Mr. Ledvina. An automated version of the OGE Form 201, also available on OGE's Web site, enables the requester to fill out, submit and receive immediate access to financial reports and certain related records for individuals who have been nominated by the President to executive branch positions requiring Senate confirmation, and individuals who have declared their candidacy for the Office of the President of the United States.

SUPPLEMENTARY INFORMATION:

Title: Request to Inspect or Receive Copies of Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records.

Agency Form Number: OGE Form 201.

OMB Control Number: 3209-0002.

Type of Information Collection: Extension with modifications of a currently approved collection.

Type of Review Request: Regular.

Respondents: Individuals requesting access to executive branch public financial disclosure reports and other covered records.

Estimated Annual Number of Respondents: 870.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden: 145 hours.

Abstract: The OGE Form 201 (201 form) collects information from, and provides certain information to, persons who seek access to OGE Form 278/SF 278 Public Financial Disclosure Reports, including OGE Form 278-T Periodic Transaction Reports (collectively referred to as 278 reports or public financial disclosure reports), and other covered records. The form reflects the requirements of the Ethics in Government Act (EIGA), the Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act), and OGE's implementing regulations that must be met by a person before access can be granted. These requirements relate to information collected about the identity of the requester, as well as any other person on whose behalf a record is sought, and notification of prohibited uses of executive branch public disclosure financial reports. See EIGA at 5 U.S.C. app. §§ 105 (b) and (c), and 402 (b)(1); the STOCK Act, P.L. 112-105 (April 4, 2012), as amended by, P.L. 113-7 (April 15, 2013); and 5 CFR 2634.603 (c) and (f) of OGE's executive branchwide regulations. Executive branch departments and agencies are encouraged to utilize the 201 form for individuals seeking access to public financial disclosure reports and other covered documents. OGE permits departments and agencies to use or develop their own forms as long as the forms collect and provide all of the required information.

OGE is proposing several modifications to both the non-automated and automated versions of the 201 form. Specifically, OGE proposes to modify the title of the form, add a warning to requestors that intentional falsification of the information required by the

201 form may result in prosecution under 18 U.S.C. § 1001, and update the Privacy Act Statement to include an additional routine use. OGE is proposing that this renewal request to OMB cover the fully automated version of the 201 form, available only through the OGE Web site at www.oge.gov. Initially launched in March 2012, this automated version of the access form enables a requestor to obtain, immediately upon Web site submission of the completed 201 form, financial disclosure reports and other covered records of individuals who have been nominated by the President to executive branch positions requiring Senate confirmation (PAS officials) and individuals who have declared their candidacy for the Office of the President of the United States. The automated OGE Web site version of the form also can be used by requestors to download or view a list of all 201 form requests for access to financial disclosure reports for a specific filer provided through the OGE Web site.

OGE published a first round notice of its intent to request paperwork clearance for a proposed modified OGE Form 201 Ethics in Government Act Access Form. See 78 FR 24749-24750 (April 26, 2013). OGE received comments from two agencies in response to that paperwork notice. One agency noted that the proposed addition of the reference to 18 U.S.C. § 1001 would serve as a useful additional deterrent to misuse of 278 reports and other covered records.

Another agency raised a question regarding how OGE will verify the identity of requestors and the validity of requests seeking access to 278 reports and other documents using the automated 201 form without some form of online signature verification. OGE notes that there is no requirement in EIGA that a requester's identity be verified in order to obtain access to or copies of 278 reports or other covered records, and OGE does not

perform such verification. Section 105(b)(2) of EIGA requires that a requestor provide certain information, such as the requestor's name, occupation, address, and the name and address of any other person or organization on whose behalf the copy of or access to a report is requested, and to "acknowledge" in writing the prohibitions on obtaining and use of a 278 report prior to being granted a copy of or access to a report. On the paper version of the 201 form, the requestor's signature is intended to fulfill the acknowledgment requirement; the signature is not used as a basis to verify the identity of the requestor or the validity of a request. On the electronic version of the 201 form, the acknowledgment requirement is met by the requestor checking a box. The same information and acknowledgement is required on both the paper and the automated 201 forms. Therefore, while the automated 201 form will not have a separate verification mechanism, it fully complies with the requirements of EIGA as set forth in 5 U.S.C app. § 105(b)(2), and is comparable to the non-automated 201 form.

The same agency questioned whether the proposed reference to 18 U.S.C. § 1001 on the 201 form would serve as an effective deterrent in the absence of a process for verifying each requestor's identifying information. Section 1001 prohibits the knowing and willful: 1) falsification or omission by trick or scheme of any material fact; 2) making of material false statements; or 3) knowing use of a false document containing materially false statements, in all matters within the jurisdiction of the executive, legislative or judicial branches of the United States Government. The purpose of including the reference to 18 U.S.C. § 1001 is to put requestors on notice of a legal prohibition on falsification of information they are required to provide on the 201 form.

As such, the reference alone has deterrent value, even if it is not itself an investigative tool for OGE's purposes.

The same agency also requested clarification as to whether OGE may legally continue to make the financial disclosure reports of all PAS officials available to requestors on-line, in light of an amendment to the STOCK Act that limits the requirement of on-line posting of public financial disclosure reports to PAS officials occupying positions listed in 5 U.S.C. §§ 5312 and 5313. See P.L. No. 113-7 (April 12, 2013). While section (a)(1) of Public Law No. 113-7 limits the STOCK Act's *requirement* that public financial disclosure reports filed pursuant to Title I of EIGA be available on-line to select high-level officials (president, vice president and officials occupying positions listed in Executive Schedules I and II), that section does not *prohibit* use of the Internet to release the reports of PAS officials to requestors upon written application. The agency's comment misses this important distinction. OGE allows requestors to submit on-line requests for and gain access to the public financial disclosure reports of most PAS officials through an automated, written application process that fully conforms to the statutory requirements of EIGA set forth at 5 U.S.C. app. § 105(b)(2).

Request for Comments: Agency and public comment is again invited specifically on the need for and practical utility of this information collection, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). Comments received in response to this notice will be summarized for, and may be included with, the OGE request for extension of OMB paperwork approval. The comments will also become a matter of public record.

Approved: September 6, 2013

Walter M. Shaub, Jr.
Director, U.S. Office of Government Ethics

[FR Doc. 2013-22251 Filed 09/12/2013 at 8:45 am; Publication Date: 09/13/2013]